

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

---

ROBERT PURCELL,

Plaintiff,

v.

LEAD CASE:  
5:87-CV-1212(NPM/DEP)

TOWN O CAPE VINCENT and  
HAROLD J. KIDDO,

Defendants,

---

GEORGE G. COUCH,; ELIZABETH S.  
PRICE-KELLOGG; JEREMY PRICE-KELLOGG;  
ROBERT A UHLIG, AND RUTH UHLIG

Plaintiffs,

v.

Member Case:  
5:01-CV-1519(NPM/DEP)

TOWN OF CAPE VINCENT,

Defendant,

---

APPEARANCES:

OF COUNSEL:

FRENCH, WALCOTT LAW FIRM  
Attorneys for Plaintiffs George G. Couch,  
Elizabeth S. Price-KELLOGG, Jeremy Price-KELLOGG,  
Robert A. Uhlig and Ruth A. Uhlig  
300 South State Street  
Syracuse, NY 13202

LEE ALCOTT, ESQ.

ROBERT PURCELL, *pro se*

HISCOCK, BARCLAY, LLP  
Attorneys for Defendants  
One Park Place  
300 South State Street  
Post Office Box 4878  
Syracuse, NY 13202-2078

ALAN R. PETERMAN, ESQ.  
ANTHONY J. PIAZZA, ESQ.

HON. NEAL P. MC CURN, Sr. J.

### **MEMORANDUM DECISION AND ORDER**

By Order dated September 21, 2007, Chief United States District Court Judge Norman A. Mordue, reassigned this case from the Honorable Howard G. Munson, Senior U.S. District Judge to the Honorable Neal P. McCurn, Senior U.S. District Judge

The facts of the underlying dispute are set forth in this court's previous decision in this case denying the cross motions for summary judgment made by the respective parties, and familiarity therewith is assumed. See Robert Purcell v. Town of Cape Vincent, 281 F. Supp.2d 469 (N.D.N.Y. 2003).

Currently before the Court, are cross motions for summary judgment. Of course, summary judgment is appropriate only upon a showing that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Fed.R.Civ.P. 56©; Matsushita Electric Industry Co., Ltd. v. Zenith Radio Corporation, 475 U.S. 574, 586-87 (1986).

In determining these motions, the Court has taken into account all of the materials submitted by the parties; and after due and careful consideration, the conclusion reached was

that material issues of fact are still in dispute concerning the central issue in this matter - whether the terms of the settlement agreement entered into by the parties were fully complied with by the plaintiffs and the defendant.

The inferences to be drawn from the facts as they appear on the face of the present record do not support the granting of summary judgment in favor of either side. United States v. Diebold, Inc., 369 U.S. 654, 655, 82 S. Ct. 993, 8 L. Ed.2d 176 (1962).

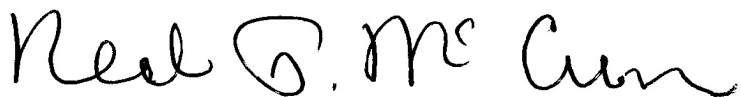
Ultimately, all good disputes must come to an end, and this is that end. The Court will entertain no further letters, motions or hearings.

Trial on this matter is set for Monday, December 10, 2007, at 10:00 a.m. and a final pretrial conference is set for Monday, December 3, 2007, at 10:00am.

Further, the court shall immediately issue a final pre-trial order setting forth all required pretrial documents and the parties shall be directed to file same or before Friday, November 23, 2007.

**IT IS SO ORDERED.**

Dated: September 25, 2007  
Syracuse, New York

A handwritten signature in black ink, reading "Neal P. McCurn". The signature is written in a cursive, flowing style. The first name "Neal" is written in a larger, more prominent script, followed by "P." and "McCurn".

Neal P. McCurn  
Senior U.S. District Judge

